

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

Bail Appl.No. 5281 of 2007()

CRIME NO. 306/07 OF POOYAPPALLY POLICE STATION, KOLLAM

PETITIONERS : ACCUSED 1 TO 7:

1. SUNIL, S/O.RAJAN ACHARI,  
CHARUVILA PUTHEN VEEDU, THACHIKODE MURI,  
POOYAPPALLY VILLAGE, KOLLAM.
2. RAJAN ACHARI, S/O.SANKARAN ACHARI,  
CHARUVILA PUTHEN VEEDU, THACHIKODE MURI,  
POOYAPPALLY VILLAGE, KOLLAM.
3. OMANA, D/O.CHELLAMMA,  
CHARUVILA PUTHEN VEEDU, THACHIKODE MURI,  
POOYAPPALLY VILLAGE, KOLLAM.
4. SURESH, S/O.RAJAN ACHARI,  
SURYA NIVAS, THACIKODE, POOYAPPALLY VILLAGE,  
KOLLAM.
5. SUNDARESHAN, S/O.RAJAN ACHARI,  
CHARUVILA PUTHENVEEDU, THACHACODE MURI,  
POOYAPPALLY VILLAGE.
6. SUSHEELA, W/O.CHELLAPPAN,  
ATHIRA BHAVAN, KALAVAYAL, OYOOR  
KOLLAM.
7. SUMA, W/O.BABU,  
CHARUVILA PUTHENVEEDU, PONGANADU,  
KILIMANOOR.

BY ADV. SRI.SAJU.S.A

RESPONDENTS: STATE:

STATE OF KERALA REPRESENTED BY THE  
SUB INSPECTOR OF POLICE, POOYAPPALLY POLICE  
STATION, KOLLAM-THROUGH THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 06/09/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**R. BASANT, J.**

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B.A.No. 5281 of 2007  
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Dated this the 6th day of September, 2007

**ORDER**

Application for anticipatory bail. The petitioners are husband of the defacto complainant and his relatives. The petitioners face allegations in a crime registered, inter alia, under Section 498A I.P.C.

2. The facts appear to be weired. The marriage between the first petitioner and the defacto complainant took place on 19.8.2007. On 20.8.07 the defacto complainant was before the local Sub Inspector raising an allegation of matrimonial cruelty. Crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

3. The crux of the allegations against the petitioners is that the defacto complainant's request to continue her education was turned down. Abusive words were used. She was allegedly told that she had been married and brought into the family not for continuation of her education, but to do work in the house hold.

4. The learned counsel for the petitioners submits that there were problems in the marriage and vexatious and exaggerated

allegations are being made by the defacto complainant, who has influential relatives in the police force, with the sole intention of harassing the petitioners. In any event, directions under Section 438 Cr.P.C. may be issued in favour of the petitioners, it is prayed.

5. The learned Prosecutor does not oppose the application. He only submits that appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation. I find merit in the stand taken by the learned Prosecutor. I am satisfied that directions under Section 438 Cr.P.C. can be issued in favour of the petitioner. Arrest and incarceration of the petitioner is likely to mar all possibilities of reconciliation of marital relationship. Subject to appropriate conditions, anticipatory bail can be granted to the petitioner.

6. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 12.9.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 13.9.07, and 14.9.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 12.9.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 12.9.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 12.9.2007.

**(R. BASANT)**  
Judge